

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JONATHAN BOGGS,

Plaintiff,

v.

No. 1:22-CV-00712

MICHAEL ANTHONY GARZA
HAYDEN TRUCKING, LLC,

Defendants.

ANSWER TO PLAINTIFF'S ORIGINAL COMPLAINT

COME NOW Defendants Michael Anthony Garza and Hayden Trucking, LLC, by and through Cuddy & McCarthy, LLP (Scott P. Hatcher, Esq. and Robert A. Corchine, Esq.), and for their Answer to Plaintiff's Original Complaint state as follows:

1. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of Plaintiff's Original Complaint and so deny them.

2. Regarding Paragraph 2 of Plaintiff's Original Complaint, Defendants admit that Defendant Michael Anthony Garza is a resident of Kirbyville, Missouri.

3. Defendants admit the allegations contained in Paragraph 3 of Plaintiff's Original Complaint.

4. Regarding Paragraph 4 of Plaintiff's Original Complaint, Defendants state that this paragraph purports to state a legal conclusion to which no response is required.

5. Regarding Paragraph 5 of Plaintiff's Original Complaint, Defendants admit that on October 29, 2020, Defendant Michael Anthony Garza was traveling southbound on Pete V. Domenici International Highway in Dona Ana County, New Mexico in a 2016 Dodge truck.

Defendants further admit that Plaintiff was traveling westbound on Airport Road in a 2007 Honda Accord. Defendants deny the remaining allegations contained in Paragraph 5 of Plaintiff's Original Complaint and demand strict proof thereof.

ALLEGATIONS AGAINST MICHAEL ANTHONY GARZA

6. Defendants incorporate by reference their answers to Paragraphs 1 through 5 of Plaintiff's Original Complaint in response to Paragraph 6 of the Complaint the same as if fully copied and set forth at length herein.

7. Defendants deny the allegations contained in Paragraph 7, including subparagraphs (a) through (h) of Plaintiff's Original Complaint, and demand strict proof thereof.

8. Defendants deny the allegations contained in Paragraph 8 of Plaintiff's Original Complaint and demand strict proof thereof.

CAUSE OF ACTION – RESPONDEAT SUPERIOR

9. Regarding Paragraph 9 of Plaintiff's Original Complaint, Defendants admit that at all times material hereto, Defendant Michael Anthony Garza was operating the 2016 Dodge truck in the course and scope of his employment for Defendant Hayden Trucking, LLC. Defendants state that the remaining allegations contained in Paragraph 9 of the Complaint purport to state a legal conclusion to which no response is required.

PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST HAYDEN TRUCKING, LLC

10. Defendants deny the allegations contained in Paragraph 10 of Plaintiff's Original Complaint and demand strict proof thereof.

PROXIMATE CAUSE

11. Defendants deny the allegations contained in Paragraph 12 of Plaintiff's Original Complaint and demand strict proof thereof.

DAMAGES OF JONATHAN BOGGS

12. Defendants deny the allegations contained in Paragraph 12 of Plaintiff's Original Complaint, including sub-paragraphs (A) through (H) and demand strict proof thereof.

13. Regarding Paragraph 13 of Plaintiff's Original Complaint, Defendants state that this paragraph fails to state factual allegations to which a response is required. If a response to this paragraph is necessary, Defendants deny any liability to Plaintiff and they further deny that Plaintiff is entitled to recover any damages claimed herein.

14. Defendants deny all relief requested by Plaintiff in the "Prayer" section of his Complaint.

15. Any allegation not specifically admitted herein is denied.

AFFIRMATIVE DEFENSES

Defendants Michael Anthony Garza and Hayden Trucking, LLC, specifically denying any liability to Plaintiff herein, plead the following defenses in the affirmative:

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Original Complaint should be dismissed for failure to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's recovery of damages, if any, is barred by his sole negligence.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's recovery of damages, if any, should be barred or reduced in proportion to his percentage of negligence or fault in accordance with the New Mexico doctrine of comparative fault.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's recovery of damages, if any, should be barred or reduced to the extent that he has failed to mitigate his damages.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's recovery of damages, if any, should be barred or reduced to the extent that his claimed injuries pre-existed the subject accident and/or occurred subsequent thereto and were not caused by that accident.

SIXTH AFFIRMATIVE DEFENSE

Defendants reserve the right to plead additional affirmative defenses that may be learned through discovery.

JURY DEMAND

Defendants hereby demand a jury.

WHEREFORE Defendants Michael Anthony Garza and Hayden Trucking, LLC, having fully answered Plaintiff's Original Complaint, pray that the same be dismissed with prejudice and that they recover their costs incurred herein together with such other and further relief as the Court deems just and proper.

Respectfully submitted,

CUDDY & MCCARTHY, LLP



By: _____

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CERTIFICATE OF MAILING

The undersigned hereby certifies he transmitted a true and accurate copy of the foregoing
to:

THE ENRIQUEZ LAW FIRM, PLLC

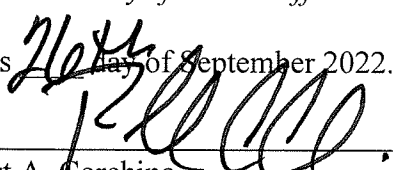
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Attorneys for Plaintiff Jonathan Boggs

on this 26th day of September 2022.



Robert A. Corchine